

## Form 2100, Schedule 349 - FM TRANSLATOR OR FM BOOSTER STATION CONSTRUCTION PERMIT APPLICATION

**The following Instructions track the FM Translator/Booster Construction Permit Application in LMS:**

### **GENERAL INSTRUCTIONS**

Schedule 349 is used to apply for authority to construct a new FM translator or broadcast booster station, or to make changes in the existing facilities of such station. An FM translator station is a station operated for the purpose of retransmitting the signals of an AM or FM radio broadcast station, by amplifying and reradiating such signals within the protected contour of the primary station, without significantly altering any characteristic of the incoming signal other than its frequency and amplitude. An FM broadcast booster station is a station in the broadcasting service operated for the purpose of retransmitting the signals of an FM radio broadcast station, by amplifying and reradiating such signals, without significantly altering any characteristic of the incoming signal other than its amplitude.

**FCC Rules.** This application makes many references to FCC rules. Applicants should have on hand and be familiar with current broadcast rules in Title 47 of the Code of Federal Regulations (CFR):

- (1) Part 0 "Commission Organization"
- (2) Part 1 "Practice and Procedure"
- (3) Part 73 "Radio Broadcast Services"
- (4) Part 74 "Experimental Radio, Auxiliary, Special Broadcast, and Other Program Distributional Services"

FCC Rules may be purchased from the Government Publishing Office. Current prices and purchasing information may be obtained from the GPO Bookstore Website at <https://bookstore.gpo.gov/>. An up-to-date electronic version of Title 47 of the CFR may be accessed at [https://www.ecfr.gov/cgi-bin/text-idx?SID=0970bd71b3f8da40f9fc92f01b613dfd&mc=true&tpl=/ecfrbrowse/Title47/47tab\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?SID=0970bd71b3f8da40f9fc92f01b613dfd&mc=true&tpl=/ecfrbrowse/Title47/47tab_02.tpl).

**Electronic Filing of Application Forms.** Electronic filing of this application is mandatory. See <https://enterpriseefiling.fcc.gov/dataentry/login.html>. Similarly, any amendment to the application must be filed electronically. The amendment should contain the following information to identify the associated application:

- (1) Applicant's name
- (2) Facility ID#
- (2) Call letters or specify "NEW" station
- (3) Channel number
- (4) Station location
- (5) File number of application being amended (if known)
- (6) Date of filing of application being amended (if file number is not known)

Applicants should follow the procedures set forth in Parts 0, 1, 73, and 74 of the Commission's rules.

A copy of the completed application and all related documents shall be made available for inspection by the public in the station's public inspection file, pursuant to the requirements of 47 CFR § 73.3526(b).

Applicants should provide all information requested by this application. No section may be omitted. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be dismissed.** Inadvertently accepted applications are also subject to dismissal.

In accordance with 47 CFR § 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.

This application requires applicants to certify compliance with many statutory and regulatory requirements. Detailed instructions and worksheets provide additional information regarding Commission rules and policies. These materials are designed to track the standards and criteria that the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent. While applicants are required to review all application instructions, they are not required to complete or retain any documentation created or collected to complete the application.

This application is presented primarily in a "Yes/No" certification format. However, it contains appropriate places for submitting explanations and attachments where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the "Yes" certification when they are certain that the response is correct. A "No" response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. Thus, a "No" response to any of the certification items **will not** cause the immediate dismissal of the application provided that an appropriate attachment is submitted.

**The applicant must electronically sign the application.** The signature will consist of the electronic equivalent of the typed name of the individual submitting the application as the applicant or applicant's authorized representative. Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowledge, counsel shall separately set forth the reasons for believing that such statements are true. See 47 CFR § 73.3513. The electronic signature will consist of the electronic equivalent of the typed name of the individual. See Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998), ¶ 17.

**Notification Requirements.** All applicants must comply with the requirements of section 73.1030. Specifically, applicants must notify United States Government radio astronomy installations, radio receiving installations, and FCC monitoring stations of the proposed facility and its possible impact on their operations. The Commission need not be informed of the date of such notification.

## GENERAL INFORMATION

**Application Description:** In the space provided, give a brief (255 characters or fewer) description of the application. This is to assist you in identifying this discrete application and will be displayed only in your LMS Application workspace. It will not be made a part of your application or be displayed to others.

**Uploaded Attachments:** Indicate by clicking "Yes" or "No" whether the application includes attachments other than required attachments. Required attachments are those that must be filed in response to application questions, and may only be required if certain answers are given.

## FEES, WAIVERS, AND EXEMPTIONS

**Fees:** The Commission is statutorily required to collect charges for certain regulatory services to the public. Generally, applicants seeking authority to construct a new broadcast station or modify an outstanding authorization are required to

submit a fee with their application. Government entities, however, are exempt from this fee requirement. Exempt entities include possessions, states, cities, counties, towns, villages, municipal organizations, and political organizations or subparts thereof governed by elected or appointed officials exercising sovereign direction over communities or governmental programs. Also exempt are full-service noncommercial educational (NCE) radio and TV broadcast licensees and permittees, **provided** that the proposed facility will be operated noncommercially. See 47 CFR § 1.1116.

When filing a fee-exempt application, an applicant must select “Yes” to the question asking if the applicant is exempt from FCC application fees. If selecting “Yes,” explain in the text box that opens the reason for the fee exemption. Select “Yes” or “No” to the question asking whether the applicant is exempt from payment of FCC annual regulatory fees, as appropriate.

The Application Fee Filing Guide for Media Bureau, obtainable at <https://www.fcc.gov/document/media-bureau-application-fee-filing-guide-1>, contains a list of the required fees and Fee Type Codes needed to complete this application. The Commission's fee collection program utilizes a U.S. Treasury lockbox bank for maximum efficiency of collection and processing.

Payment of any required fee must be made by check, bank draft, money order, credit card, or wire transfer. If payment is made by check, bank draft, money order, or wire transfer, the remittance must be denominated in U.S. dollars, drawn upon a U.S. financial institution, and made payable to the Federal Communications Commission. No postdated, altered, or third-party checks will be accepted. **DO NOT SEND CASH.** Additionally, checks dated six months or older will not be accepted.

**FCC Form 159, dated February 2003, must be submitted with any application subject to a fee received at the Commission. All previous editions of this form are obsolete. Failure to use this version of the form or to submit all requested information may delay the processing of the application.**

For further information regarding the applicability of a fee, the fee code, the amount of the fee, or the payment of the fee, applicants should consult the "Application Fee Filing Guide for Media Bureau," which may be accessed at <https://www.fcc.gov/document/media-bureau-application-fee-filing-guide-1>.

**Waivers:** If any waiver of the Commission's rules is requested at any part of the application, select “Yes” to this question. If selecting “Yes,” complete the box that opens by stating the number of rule sections for which you request waiver. You must then submit an attachment setting forth the waiver(s) sought and the legal justification for waiver.

## **APPLICANT INFORMATION**

**Applicant Name and Type:** Select the Applicant Type (e.g., Individual, Unincorporated Association, Trust, Government Entity, etc.) from the drop-down menu. In the box below the drop-down menu, enter the exact legal name of the applicant or applicant entity. The name of the applicant must be stated exactly in this item. If the applicant is a corporation, the applicant should list the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person's full legal name.

**Applicant Information:** Enter the applicant's postal address, telephone number, and Email address in the spaces provided. Select the applicant's Country and State from the drop-down menus.

## **CONTACT REPRESENTATIVE**

If the applicant is represented by a third party (such as, for example, legal counsel), that person's name, firm or company, and telephone/electronic mail address may be specified as Contact Representative. Otherwise, a party to the application or another person associated with the applicant may be designated as Contact Representative. This is the person with whom the Commission will communicate regarding the application. At least one Contact Representative must be designated. To add a Contact Representative, click the “Add Contact” button at the top right of the screen.

**Contact Type:** Select the button that best describes the contact type, whether Legal Representative (e.g., attorney), Technical Representative (e.g., engineer), or Other.

**Contact Name:** Enter the name of the Contact Representative. If the Contact Representative is the same as the applicant, you can pre-fill the Contact Name and Contact Information fields with the applicant information previously provided, by clicking the “Pre-fill From Applicant Details” button. If the representative works for a firm or company, enter that name in the Company Name space.

**Contact Information:** Enter the Contact Representative’s postal address, telephone number, and Email address in the spaces provided. Select the Contact Representative’s Country and State from the drop-down menus.

If you have more than one Contact Representative, click the “Save & Add Another” button at the bottom of the screen and complete for the next Contact Representative. When you are finished, click “Save & Continue.” You will be displayed a summary screen listing your Contact Representative(s). From this screen you may delete a Contact Representative or edit the information provided. If you have no further Contact Representative information to add or edit, click “Save & Continue.”

## **ALIEN OWNERSHIP**

All applications must comply with section 310 of the Communications Act, as amended. Specifically, section 310 proscribes issuance of a construction permit or station license to an alien, a representative of an alien, a foreign government or the representative thereof, or a corporation organized under the laws of a foreign government. This proscription also applies with respect to any entity of which more than 20 percent of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or an entity organized under the laws of a foreign country. The Commission may also deny a construction permit or station license to a licensee directly or indirectly controlled by another entity of which more than 25 percent of the capital stock is owned or voted by aliens, their representatives, a foreign government or its representative, or another entity organized under the laws of a foreign country. Any such applicant seeking Commission consent to exceed this 25 percent benchmark in section 310(b)(4) of the Act must do so by filing a petition for declaratory ruling pursuant to section 1.5000-04.

Compliance with section 310 is determined by means of a two-pronged analysis, one pertaining to voting interests and the second to ownership interests. *See, e.g., BBC License Subsidiary L.P.*, 10 FCC Rcd 10968 (1995). The voting interests held by aliens in a licensee through intervening domestically organized entities are determined in accordance with the multiplier guidelines for calculating indirect ownership interests in an applicant as set forth in the "Corporate Applicant" Instructions above. For example, if an alien held a 30 percent voting interest in Corporation A which, in turn, held a non-controlling 40-percent voting interest in Licensee Corporation B, the alien interest in Licensee Corporation B would be calculated by multiplying the alien's interest in Corporation A by that entity's voting interest in Licensee Corporation B. The resulting voting interest (30% x 40% = 12%) would not exceed the 25 percent statutory benchmark. However, if Corporation A held a controlling 60 percent voting interest in Corporation B, the multiplier would not be utilized and the full 30 percent alien voting interest in Corporation A would be treated as a 30 percent interest in Licensee Corporation B, i.e., an impermissible 30% indirect alien voting interest in the licensee. If Partnership A held a 40 percent voting interest in Licensee Corporation B, that voting interest would be similarly impermissible if any general partner or any non-insulated limited partner of partnership A was an alien, regardless of his or her partnership interest. *See also Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11272, paras. 67-72 (2016) (*2016 Foreign Ownership Order*).

Applicants must also comply with the separate alien equity ownership benchmark restrictions of section 310. Under the second prong of the analysis, an applicant must determine the *pro rata* equity holdings of any alien investor in a licensee entity or its parent. In calculating alien ownership, the same voting interest multiplier rules apply.

In order to complete this two-pronged analysis, an applicant must determine the citizenship of each entity holding either a voting or equity interest or explain how it determined the relevant percentages. Corporate applicants and licensees whose

stock is publicly traded must determine the citizenship of interest holders who are known or should be known to the company in the ordinary course of business, including: (1) registered shareholders; (2) officers, directors, and employees; (3) interest holders reported to the Securities and Exchange Commission; (4) beneficial owners identified in annual or quarterly reports and proxy statements; and (5) any other interest holders that are actually known to the company, such as through transactions, litigation, proxies, or any other source. Statistical sampling surveys are no longer necessary. Although direct inquiry and publicly available resources may be used to determine citizenship of known or should-be-known interest holders, street addresses are not sufficient for this purpose. For more detailed information on identifying and calculating foreign interests, see *2016 Foreign Ownership Order*, paras. 44-72.

If the combined total foreign ownership (foreign voting interests and foreign equity interests) identified under this methodology does not exceed 25%, a declaratory ruling is not necessary to grant the application. A subsidiary or affiliate of a licensee already named in a foreign ownership declaratory ruling may rely on that ruling, and by certifying compliance with the provisions of section 310 of the Communications Act of 1934, as amended, relating to interests of aliens and foreign governments, certifies that it and the licensee named in the declaratory ruling are in compliance with the terms and conditions of the original foreign ownership declaratory ruling. See 47 CFR § 1.5004(b). Questions 6-9 of this item ask whether the applicant has received a foreign ownership declaratory ruling and whether the applicant complies with the terms of that prior declaratory ruling. Alternatively, it asks whether the applicant is filing for a foreign ownership declaratory ruling in connection with this application.

## LEGAL CERTIFICATIONS

**Operational Compliance.** These two questions relate to the applicant's compliance with the restrictions on FM translator and booster operation adopted by the Commission in MM Docket No. 88-140. The proper role for the FM translator service is to supplement the service provided by full-service AM and FM radio broadcast stations. The amended regulations prohibit the licensee of a commercial FM station that will be rebroadcast, or any entity "having any interest whatsoever [in] or any connection with" the licensee of such a "primary" station, from owning an FM translator that will operate outside the protected service contour of that primary commercial FM station. Because of the potential for abuse, the Commission intended this restriction to be read very broadly. Report and Order in MM Docket No. 88-140, 5 FCC Rcd 7212, 7244 note 25 (1990). Therefore, pursuant to 47 CFR § 74.1232(d), interested and connected parties include, but are not limited to, group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members, and business associates. "Business associates" has been defined to include a situation in which one of the translator principals owns or works for a business that advertises on the primary station. *Letter to Mr. Eric Redd and Christopher D. Imlay, Esq.*, DA 98-876, 13 FCC Rcd 25188 (M.M. Bur. 1998). The underlying rationale for this prohibition has been to prevent FM station licensees from using FM translators as a competitive means for extending their stations' service areas.

**NOTE: 47 CFR § 74.1232(d) does not apply to FM translator applicants proposing noncommercial educational operation.**

In situations where a licensee establishes that the proposed facility's service contour will include a substantial amount of "white area," the Commission may grant requests for waiver of section 74.1232(d). The Commission has defined a "white area" as any area outside the coverage contour of **any** full-time aural service. In order for licensees of commercial primary stations to have an interest in or connection with translators serving such areas, the Commission requires a showing of a lack of service in accordance with the stated "white area" definition. See Report and Order in MM Docket No. 88-140, 5 FCC Rcd at 7216; *Kevin C. Boyle, Esq.*, Letter, 11 FCC Rcd 2348 (M.M. Bur. 1996).

The Commission adopted rules in MB Docket No. 07-172 that would allow AM stations to use FM translator stations to rebroadcast the AM signal locally, retransmitting their AM programming as a fill-in service. The cross-service translating rules limit FM translators to providing fill-in service only, specifically within the primary AM station's authorized service area.

Accordingly, the first question asks the applicant to certify that the FM translator applicant is not also the licensee or permittee of the commercial primary station to be rebroadcast and that none of the principals in the FM translator applicant have any interest in or connection with the primary station. If there is any interest or connection whatever, the applicant

must answer "No" to this question. The applicant must then provide an attachment disclosing or describing the relationship or connection.

The next question asks the applicant to certify that the FM translator station will be used as a fill-in service for a full-service FM station or will comply with the fill-in and distance requirements for FM translator stations rebroadcasting AM stations, as explained below.

In the FM service, the coverage contour of the FM translator station must not extend beyond the protected coverage contour of the commercial FM primary station to be rebroadcast. For purposes of this question, the "protected coverage contour" is:

<i>Non-reserved band Class B Stations</i>	0.5mV/m	54 dBu (50,50) contour
<i>Non-reserved band Class B1 Stations</i>	0.7 mV/m	57 dBu (50,50) contour
<i>All other FM Station Classes</i>	1 mV/m	60 dBu (50,50) contour

In the AM service, the FM translator's entire 1 mV/m coverage contour must be contained within the greater of either: (i) the 2 mV/m daytime contour of the commercial AM primary station to be rebroadcast, or (ii) a 25-mile radius centered at the commercial AM primary station's transmitter site.

If responding "No" to the second question, the applicant must provide an attachment explaining noncompliance with the rule or seeking waiver of the rule. If the answer to both "a" and "b" is "No" and no waiver has been justified, the application will be dismissed as unacceptable for filing under 47 CFR §§ 73.3566(a) and 74.1232(d).

**Applicants proposing noncommercial educational translator operation should click the "N/A" radio button for both parts of this question. FM booster station applicants should respond "N/A" to these questions.**

**Support Compliance.** This question requires an FM translator applicant to certify that it complies with the rule regarding financial and technical assistance from the commercial FM primary station to be rebroadcast. Applicants proposing FM translator operation for which the translator contour extends beyond the protected contour of the commercial FM primary station to be rebroadcast may not "receive any support, either directly or indirectly, from the commercial primary FM radio broadcast station" or from any entity "having any interest whatsoever [in] or any connection with" the licensee of such a commercial primary station. See 47 CFR § 74.1232(e). Pursuant to 47 CFR §74.1232(e), "[i]nterested and connected parties" include but are not limited to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members, business associates, and advertisers. This provision is to be interpreted very broadly. *Report and Order* in MM Docket No. 88-140, 5 FCC Rcd at 7244, note 25 (1990). "Business associates" has been defined to include a situation in which one of the translator principals owns or works for a business that advertises on the primary station. *Letter to Mr. Eric Redd and Christopher D. Imlay, Esq.*, DA 98-876 13 FCC Rcd 25,188 (M.M. Bur. 1998).

Notwithstanding these restrictions, FM translators may receive "technical assistance" from the commercial primary station to the extent of installing or repairing equipment or making adjustments to equipment to ensure compliance with the terms of the translator operator's construction permit and license. "Technical assistance" here refers to actual services provided by the primary station's technical staff or compensation for the time and services provided by independent engineering personnel. It does not include the provision of equipment for the translator's operation or direct funding for the translator operator's discretionary use. Furthermore, such technical assistance must occur after the issuance of the translator's construction permit or license in order to meet expenses incurred by installing, repairing, or making adjustments to equipment. Thus, applicants for new FM translator stations may not be promised or receive financial or technical assistance during the application process from the commercial primary station or any person interested in or connected with that station. Memorandum Opinion and Order in MM Docket No. 88-140, 8 FCC Rcd 5093, 5096 (1993).

47 CFR § 74.1232(e) provides that an other area FM translator station (i.e., FM translator station whose coverage contour extends beyond the protected contour of the commercial FM primary station) shall not receive any support, before, during, or after construction, either directly or indirectly, from the commercial primary FM radio broadcast station, or from any person or entity having an interest in or connection with the commercial primary FM station. For the purposes of this rule, interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members, business associates, and advertisers.

If the translator applicant is receiving or has been promised from the primary station or any party interested in or connected to that station: (1) financial support; (2) technical support over and above what is specified in section 74.1232(e); or (3) technical assistance of any sort prior to grant of the requested permit, it should answer "No" to this question and provide an attachment with all pertinent details and, if necessary, request a waiver in the attachment.

**Applicants proposing noncommercial educational translator operation should select "N/A" to this question.**

Because the primary station financial support and technical assistance prohibition of section 74.1232(e) does not apply to "fill-in" FM translators, **applicants proposing to rebroadcast the signal of an AM primary station should select "N/A" to this question. FM booster station applicants should also respond "N/A" to this question.**

**Rebroadcast Certification.** An FM translator applicant proposing to rebroadcast the signal of a primary station which it does not own must obtain written permission of that station **prior** to retransmission of that signal. See 47 CFR § 74.1284. This question requires the applicant to certify that such authority has been received. An applicant responding "No" to this question must provide an explanatory attachment.

Additionally, the Commission must be notified of the call letters of each station rebroadcast, as well as any changes in primary stations.

For purposes of this item, "rebroadcast" means the reception by radio of the programs or other signals of a radio station and the simultaneous or subsequent retransmission of such program or signals for direct reception by the general public. See 47 CFR § 74.1284(a).

**FM translator applicants proposing to rebroadcast the signal of stations that they own should select "N/A." FM booster station applicants should respond "N/A" to this question.**

**Character Issues/Adverse Findings:** The Character Issues question requires the applicant to certify that neither it nor any party to the application has had any interest in or connection with an application that was or is the subject of unresolved character issues. An applicant must disclose in response to the Adverse Findings question whether the applicant or any party to the application has been the subject of a final adverse finding with respect to certain relevant non-broadcast matters. The Commission's character policies and litigation reporting requirements for broadcast applicants focus on misconduct which violates the Communications Act or a Commission rule or policy and on certain specified non-FCC misconduct. In responding to these questions, applicants should review the Commission's character qualifications policies, which are fully set forth in *Character Qualifications*, 102 FCC 2d 1179 (1985), *reconsideration denied*, 1 FCC Rcd 421 (1986), *as modified*, 5 FCC Rcd 3252 (1990) and 7 FCC Rcd 6564 (1992).

**NOTE:** As used in these questions, the term "party to the application" includes any individual or entity whose ownership or positional interest in the applicant is attributable. An attributable interest is an ownership interest in or relation to an applicant or licensee which will confer on its holder that degree of influence or control over the applicant or licensee sufficient to implicate the Commission's multiple ownership rules. See Report and Order in MM Docket No. 83-46, 97 FCC 2d 997 (1984), *reconsideration granted in part*, 58 RR 2d 604 (1985), *further modified on reconsideration*, 61 RR 2d 739 (1986). General guidelines are set forth below.

**INVESTORS AND CREDITORS:** Certain interests held by substantial investors in, or creditors of, the applicant may also be attributable and the investor reportable as a party to the application, if the interest falls within the Commission's equity/debt plus (EDP) attribution standard. Under the EDP standard, the interest held is attributable if, aggregating both

equity and debt, it exceeds 33 percent of the total asset value (all equity plus all debt) of the applicant – a broadcast station licensee, cable television system, daily newspaper or other media outlet subject to the Commission’s broadcast multiple ownership or cross-ownership rules – AND the interest holder also holds (1) an attributable interest in a media outlet in the same market, or (2) supplies over 15 percent of the total weekly broadcast programming hours of the station in which the interest is held. For example, the equity interest of an insulated limited partner in a limited partnership applicant would normally not be considered attributable, but, under the EDP standard, that interest would be attributable if the limited partner’s interest exceeded 33 percent of the applicant’s total asset value AND the limited partner also held a 5 percent voting interest in a radio or television station licensee in the same market.

The interest holder may, however, exceed the 33 percent threshold without triggering attribution where such investment would enable an eligible entity to acquire a broadcast station provided that: (1) the combined equity and debt of the interest holder in the eligible entity is less than 50 percent, or (2) the total debt of the interest holder in the eligible entity does not exceed 80 percent of the asset value of the station being acquired by the eligible entity and the interest holder does not hold any equity interest, option, or promise to acquire an equity interest in the eligible entity or any related entity. *See Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Third Further Notice of Proposed Rule Making, 23 FCC Rcd 5922, 5936, para. 31 (2008); *2014 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Second Report and Order, 31 FCC Rcd 9864, 9976-84, paras. 271-86 (2016) (2014 Quadrennial Review Order).

**INDIVIDUAL APPLICANT:** The natural person seeking to hold in his or her own right the authorization specified in this application.

**PARTNERSHIP APPLICANT:** Each partner, including all limited partners. However, a limited partner in a limited partnership is not considered a party to the application IF the limited partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the applicant so certifies in response to the non-attributable interests question. Sufficient insulation of a limited partner for purposes of this certification would be assured if the limited partnership arrangement:

- (1) specifies that any exempt limited partner (if not a natural person, its directors, officers, partners, etc.) cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company;
- (2) bars any exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises;
- (3) restricts any exempted limited partner from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business;
- (4) empowers the general partner to veto any admissions of additional general partners admitted by vote of the exempt limited partners;
- (5) prohibits any exempt limited partner from voting on the removal of a general partner or limits this right to situations where the general partner is subject to bankruptcy proceedings, as described in sections 402 (4)-(5) of the Revised Uniform Limited Partnership Act, is adjudicated incompetent by a court of competent jurisdiction, or is removed for cause, as determined by an independent party;
- (6) bars any exempt limited partner from performing any services to the limited partnership materially relating to its media activities, with the exception of making loans to, or acting as a surety for, the business; and
- (7) states, in express terms, that any exempt limited partner is prohibited from becoming actively involved in the management or operation of the media businesses of the partnership.



Notwithstanding conformance of the partnership agreement to these criteria, however, the requisite certification cannot be made IF the limited partner's interest is attributable under the Commission's EDP attribution standard described above; or IF the applicant has actual knowledge of a material involvement of a limited partner in the management or operation of the media-related businesses of the partnership. In the event that the applicant cannot certify as to the noninvolvement of a limited partner, the limited partner will be considered as a party to this application.

**LIMITED LIABILITY COMPANY APPLICANT:** The Commission treats an LLC as a limited partnership, each of whose members is considered to be a party to the application. However, where an LLC member is insulated in the manner specified above with respect to a limited partnership and where the relevant state statute authorizing the LLC permits an LLC member to insulate itself in accordance with the Commission's criteria, that LLC member is not considered a party to the application. In such a case, the applicant should certify "Yes" in response to the non-attributable interest question.

**CORPORATE APPLICANT:** Each officer, director and owner of stock accounting for 5 percent or more of the issued and outstanding voting stock of the applicant is considered a party to the applicant. Where the 5 percent stock owner is itself a corporation, each of its stockholders, directors and "executive" officers (president, vice-president, secretary, treasurer or their equivalents) is considered a party to this application UNLESS the applicant submits as an exhibit a statement establishing that an individual director or officer will not exercise authority or influence in areas that will affect the applicant or the station. In this statement, the applicant should identify the individual by name and title, describe the individual's duties and responsibilities, and explain the manner in which such individual is insulated from the corporate applicant and should not be attributed an interest in the corporate applicant or considered a party to this application. In addition, a person or entity holding an ownership interest in the corporate stockholder of the applicant is considered a party to this application ONLY IF that interest, when multiplied by the corporate stockholder's interest in the applicant, would account for 5 percent or more of the issued and outstanding voting stock of the applicant. For example, where Corporation X owns stock accounting for 25 percent of the applicant's votes, only Corporation X shareholders holding 20 percent or more of the issued and outstanding voting stock of Corporation X have a 5 percent or more indirect interest in the applicant ( $.25 \times .20 = .05$ ) and, therefore, are considered parties to this application. In applying the multiplier in this context, any entity holding more than 50 percent of its subsidiary will be considered a 100 percent owner. Where the 5 percent stock owner is a partnership, each general partner and any limited partner that is non-insulated, regardless of the partnership interest, is considered a party to the application.

Stock subject to stockholder cooperative voting agreements accounting for 50 percent or more of the votes in a corporate applicant will be treated as if held by a single entity and any stockholder holding 5 percent or more of the stock in that block is considered a party to this application.

An investment company, insurance company or trust department of a bank is not considered a party to this application, and an applicant may properly certify that such entity's interest is non-attributable, IF its aggregated holding accounts for less than 20 percent of the outstanding votes in the applicant AND IF:

- (1) such entity exercises no influence or control over the corporation, directly or indirectly; and
- (2) such entity has no representatives among the officers and directors of the corporation.

**ANY OTHER APPLICANT:** Each executive officer, member of the governing board and owner or holder of 5 percent or more of the votes in the applicant is considered a party to the applicant.

**Character Issues:** Where the response to the Character Issues question is "No," the applicant must submit an attachment that includes an identification of the party having had the interest, the call letters and location of the station or file number of the application or docket, and a description of the nature of the interest or connection, including relevant dates. The applicant should also fully explain why the unresolved character issue is not an impediment to a grant of this application.

**Adverse Findings:** In responding to the Adverse Findings question, the applicant should consider any relevant adverse finding. Where that adverse finding was fully disclosed to the Commission in an application filed on behalf of this station or in another broadcast station application and the Commission, by specific ruling or by subsequent grant of the application,

found the adverse finding not to be disqualifying, it need not be reported again and the applicant may respond "Yes" to this item. However, an adverse finding that has not been reported to the Commission and considered in connection with a prior application would require a "No" response.

Where the response to the Adverse Findings question is "No," the applicant must provide in an attachment a full disclosure of the persons and matters involved, including an identification of the court or administrative body and the proceeding (by dates and file numbers), and the disposition of the litigation. Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 CFR § 1.65(c), the applicant need only provide an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or section 1.65 information was filed, and the date of filing. The applicant should also fully explain why the adverse finding is not an impediment to a grant of this application.

**Program Service Certification.** Applicants for broadcast construction permits need no longer file a specific program service proposal. Nevertheless, prior to making the Program Service Certification, the applicant should familiarize itself with its obligation to provide programming responsive to the needs and interests of the residents of its community of license. See *Request for Declaratory Ruling Concerning Programming Information in Broadcast Applications for Construction Permits, Transfers and Assignments*, Memorandum Opinion and Order, 3 FCC Rcd 5467 (1988).

**Local Public Notice.** 47 CFR § 73.3580 requires that applicants for construction permits for new broadcast stations and for major change in existing broadcast facilities (as defined in 47 CFR § 73.3573(a)(1) (FM); 47 CFR § 73.3571(a) (AM); 47 CFR § 73.3572(a) (TV)) give local notice in a newspaper of general circulation in the community to which the station is licensed. This publication requirement also applies with respect to major amendments as defined in 47 CFR §§ 73.3573(b) (FM), 73.3571(b) (AM), or 73.3572(b) (TV). This publication requirement also applies with respect to applications for minor modification to existing AM and FM facilities in which the applicant seeks to change the existing facility's community of license. Local notice is also required to be broadcast over the station, if operating. However, if the station is the only operating station in its broadcast service licensed to the community involved, publication of the notice in a newspaper is not required. (Noncommercial educational FM stations are classified as a "different service" from commercial FM stations for purposes of this policy.)

Completion of publication may occur within 30 days before or after the tender of the application to the Commission. Compliance or intent to comply with the public notice requirements must be certified by the applicant. The required content of the local notice is described in 47 CFR § 73.3580(f); Worksheet # XX gives additional guidance. Proof of publication need not be filed with this application.

**Auction Authorization.** The Commission's Part 1 auction rules require all winning bidders for construction permits or licenses to include certain exhibits with their long-form applications. **If this application is being submitted to obtain a construction permit for which the applicant was a winning bidder in an auction**, then the applicant must select "Yes" and, pursuant to 47 CFR § 73.5005(a), provide an attachment containing the information required by the following Part 1 auction rules, if applicable:

- (1) Section 1.2107(d) requires the applicant to provide a detailed explanation of the terms, conditions, and parties involved in any bidding consortium, joint venture, partnership, or other agreement or arrangement it had entered into relating to the competitive bidding process. See 47 CFR § 1.2107(d).
- (2) Section 1.2110(j) requires applicants claiming designated entity status to describe how they satisfy the requirements for eligibility for such status, and to list and summarize all agreements that affect designated entity status, such as partnership agreements, shareholder agreements, management agreements, and any other agreements, including oral agreements, which establish that the designated entity will have both *de facto* and *de jure* control of the entity. See 47 CFR § 1.2110(j).

- (3) Section 1.2112(a) requires that each long-form application fully disclose the real party or parties in interest and disclose specified ownership information, including identifying any party holding a 10 percent or greater interest in the applicant. See 47 CFR § 1.2112(a).

**FM booster station applicants should respond “N/A” to this question.**

## **NONCOMMERCIAL EDUCATIONAL FM TRANSLATOR POINT SYSTEM FACTORS/TIE BREAKERS**

On channels reserved for noncommercial educational use, the Commission will grant the application of a translator providing fill-in service over one that extends the area of the primary station. In the event of conflicting mutually exclusive applications of the same type (fill-in or non fill-in), however, the Commission will conduct a paper hearing process by applying a point system to select one application for grant. The point system was established in, *Reexamination of the Comparative Standards for Noncommercial Educational Applicants*, Report and Order, Docket No. 95-31, FCC 00-120, 15 FCC Rcd 7386 (2000). The applicant’s qualification for points is determined as of the closing of the filing window, assuming the applicant continues to qualify for all points claimed at the time of selection. Thus, points cannot be enhanced by changes made after the close of the deadline for filing of competing applications, but may be reduced by such changes.

**FM booster station applicants will not respond to these questions.**

**Preliminary Matter.** Indicate (Y/N) whether the proposed translator provides fill-in service only.

**Established Local Applicant.** Established local applicants may claim 3 points. An applicant is considered established if it has been local for at least the 24 months immediately preceding application. A nongovernmental applicant is local if, within 25 miles of the reference coordinates for the proposed community of license, applicant has a school campus, its primary physical headquarters, or the primary residences of 75 percent of its governing board members. A local headquarters or residence must be a primary place of business or residence and not, for example, a post office box, lawyer's office, branch office, or vacation home. Governments are also considered local throughout the area within their jurisdiction. For example, a state government is local throughout a state, whereas a city Board of Education is local throughout the city. An applicant claiming points as an established local applicant must place supporting documentation in a local public inspection file and submit to the Commission copies of the documentation. Examples of acceptable documentation include corporate material from the secretary of state, lists of names, addresses, and length of residence of board members, copies of governing documents requiring a 75 percent local governing board, and course brochures indicating that classes have been offered at a local campus for the preceding two years, etc.

**Diversity of Ownership.** If no party to the application has an attributable interest in another authorized station with an overlapping principal community contour, the applicant can claim two points. Parties are those people or entities identified as parties to the application as discussed above. For purposes of this question, only same service stations (radio) are relevant. Thus, an applicant for a new noncommercial educational FM radio station must consider whether there are attributable interests in overlapping AM or FM stations and FM translators, but need not consider any attributable TV station for purposes of claiming this point. When counting translator stations, count all non-fill-in stations, i.e., those that extend outside the applicant’s primary station’s service contour, except to the extent that the applicant intends to replace specific translator(s) with the proposed full-service station. An applicant claiming points for diversity of ownership must place supporting documentation in a local public inspection file and submit to the Commission as an attachment copies of the documentation. The preferred documentation is a contour map showing the principal community contours of the proposed station and of other attributable stations whose principal community contours overlap or come within 10 miles of the proposed station’s contours. Applicants with no other attributable stations or with attributable stations more distant should so state.

**State-wide Network.** If the Applicant has not claimed a credit for local diversity of ownership in the previous question, it should consult Worksheet # XX to see whether it qualifies for a two-point credit as a state-wide network. Applicants may not claim both the state-wide network and local diversity credit. Both public and private entities can qualify for the

state-wide network credit, provided that they meet the requirements set out in 47 CFR § 73.7003(b)(3), which are incorporated into Worksheet # XX. National and regional networks generally will not qualify for this credit. Applicants who determine, after completing the calculations in the Web tool, that they qualify, should answer “Yes.” All others should answer “No.” Applicants claiming points as a state-wide network must place supporting documentation in their local public inspection file and submit to the Commission as attachments copies of the documentation. Preferred documentation includes identification of the names, locations, accrediting bodies, and number of schools which the applicant is currently serving and those that it will serve, and an indication of whether the schools are under the applicant’s jurisdiction or are being served pursuant to a coordinated agreement with another authority. If the schools are not under the applicant’s jurisdiction, the applicant should include documentation of the terms of its agreement with the entity with authority over the schools.

**Technical Parameters.** An applicant that provides the best technical proposal among the competing applicants, in terms of area and population served, may be eligible for additional points. The applicant may use Worksheet # XX to answer this question. Applicant should indicate the area and population within its proposed 60 dBμ service contour. Area must be measured in square kilometers and exclude significant areas of water, e.g. ocean and lakes. Population should be measured using the most recent census block data available from the United States Bureau of Census. If applicant's claimed coverage is superior to all others in terms of both area and population by at least 10 percent, the Commission will award one point. If the proposal is superior to all others by at least 25 percent, the Commission will instead award two points. The applicant should place in its local public inspection file a statement of how the technical parameters were calculated, e.g., the year and blocks of census information used, and the method used to determine area, including the amount of area excluded for specific large areas of water. The applicant should submit to the Commission as attachments copies of this information.

The applicant must also enter, in the boxes provided, the new area served (excluding areas of water), expressed to the nearest square kilometer, and the population served based on the most recent Census block data.

### **Tie Breakers**

If two or more applicants are tied under the point system, the Commission will apply a series of tie breakers, until the tie is broken. If the tie cannot be broken by the Tie Breaker criteria “Existing Authorizations” or “Pending Applications,” below, or by voluntary settlement, the Commission will select the first application received.

**Existing Authorizations.** If mutually exclusive applicants differ in their number of existing authorizations, the applicant with the fewest attributable authorizations at the time of filing will be chosen. The applicant should indicate the number of attributable radio authorizations held by parties to the application nationwide. Include both licenses and construction permits, whether commercial or noncommercial. Count all full-service AM and FM stations. Count translator stations providing non-fill-in service (*i.e.*, those extending a station’s service area). Do not count translators providing fill-in only service in determining the number of stations for this question.

Indicate the number of other attributable fill-in authorizations. The Commission will consider this in the event of a tie between applicants seeking fill-in service.

**Pending Applications.** If a tie remains between mutually exclusive applicants after considering all other factors, including existing authorizations, the Commission will select the applicant with the fewest pending radio applications at the time of filing. The applicant should indicate the number of applications in which parties to the application hold an attributable interest. Include applications for new stations and for major changes to existing stations, whether commercial or noncommercial full service or translator (other than fill-in station). Do not include other applications (e.g., voluntary assignment of license, license renewal, minor change in existing facilities).

## **CHANNEL AND FACILITY INFORMATION**

**Proposed Community of License:** Facility ID Number. If this is an application for a new FM translator or FM booster station, LMS will assign a Facility ID Number to the proposed facility. If this is an amendment to a pending application or an application to modify existing facilities, either enter the correct Facility ID Number or verify that the pre-filled Facility ID Number is correct. Radio Facility ID Numbers can be obtained at the FCC's Licensing and Management System (LMS) Search Page at <https://enterpriseefiling.fcc.gov/dataentry/public/tv/publicFacilitySearch.html> or by calling (202) 418-2700. Further, the Facility ID Number is included on all Radio authorizations and postcards.

State / City. Select the State from the pull-down menu. Enter the city or community name in the box provided.

Channel. The proposed channel must be between 200 and 300. The frequency will be that corresponding to the proposed channel, and will be automatically filled in by LMS. See 47 CFR § 73.201.

Facility Type: If not pre-filled by LMS, select the radio button for “Commercial” or “Noncommercial Educational” for the facility type, as appropriate.

## ANTENNA LOCATION DATA

**Antenna Structure Registration:** If you have obtained an Antenna Structure Registration number (ASRN), select “Yes” and then enter the ASRN in the text box that pops up. Most towers greater than 61 meters (200 feet) in height, or those located near airports require antenna registration numbers. See 47 CFR § 17.4. If the tower does not require registration, select “No”; if the FAA has not yet ruled on a proposed structure, select “Filed with the FAA.”

**Coordinates (NAD 83):** If you have an ASRN for the proposed tower, you may click the “Pre-fill Coordinates From ASR” button next to the box in which you entered the ASRN, and LMS will pre-fill the coordinates of the tower as registered. If you are manually completing the coordinates, the proposed antenna site must be specified using North American Datum 83 (NAD 83) coordinates. Please indicate North or South Latitude, and East or West Longitude. **Note: This is a change from past Media Bureau practice, in which latitude and longitude coordinates were specified using North American Datum 27 (NAD 27).** To use prior-specified coordinates, you must convert them from NAD 27 to NAD 83, using the NGS Coordinate Conversion and Transformation Tool (NCAT) available here: <https://www.ngs.noaa.gov/NCAT/>. Degrees and Minutes should be expressed in whole numbers; Seconds should be expressed to one decimal point only.

Structure Type: Select from the pull-down menu the structure type that corresponds to the structure on which the antenna is to be mounted (e.g., Building with antenna on top, Oil or other rig, Monopole array, etc.).

Overall Structure Height: All heights must be in meters. Overall structure height refers to the height above ground level (AGL) of the total structure on which the antenna is mounted, including any appurtenances (e.g. masts, lighting).

Support Structure Height: All heights must be in meters. Support structure height refers to the height of any structure, such as a building, on top of which the antenna or a mast supporting the antenna is erected, AGL.

Ground Elevation (AMSL): All heights must be in meters. This refers to the elevation above mean sea level of the ground at the base of the tower or other support structure on which the antenna is mounted.

**Antenna Data:** Height of Radiation Center Above Ground Level / Above Average Terrain / Above Mean Sea Level: All heights must be in meters, rounded to the nearest whole number. These three items request the height of both the center of horizontal and vertical radiation of the antenna above ground level and above average terrain. LMS will calculate the height of the horizontal and vertical radiation centers above mean sea level. Height above average terrain and calculation thereof is defined in 47 CFR §§ 73.313(d) and 74.1235(b).

Effective Radiated Power. The effective radiated power must be entered in kilowatts, and rounded pursuant to section 73.212 of the Commission’s rules.

## ANTENNA TECHNICAL DATA

**Antenna Type.** Select the radio button corresponding to the antenna type (Directional or Non-Directional). If “Directional” is selected, the directional antenna must comply with 47 CFR § 74.1235(i) (which incorporates 47 CFR § 73.316(c)(1) through (c)(3)). Applicants proposing a directional antenna must complete the table that opens at the bottom of the screen. Relative field values (0.001-1.000) must be entered for every 10 degrees on the unit circle from 0 to 350. Up to five azimuths may be added at the bottom of the table for additional accuracy.

**Primary Station Community of License.** Enter the Facility ID number of the primary station to be rebroadcast. LMS will then pre-fill the primary station’s community of license (including state), call sign, channel, and service. An error message will be generated if the Facility ID number entered does not correspond with a valid primary station.

**Delivery Method.** The proposed signal delivery method must comply with 47 CFR § 74.1231. All FM translators and boosters may retransmit the signal of a primary FM radio broadcast station, or a translator which has been received over the air, converted to the authorized channel, and suitably amplified.

FM booster stations and certain FM translator stations may use over-the-air reception as well as alternative signal delivery methods, including satellite and terrestrial microwave facilities. Select the radio button corresponding to the signal delivery method to be used.

If the signal is to be received via a translator station, select “Via Call Sign” and then give the call sign of the translator station in the box that opens up.

If selecting “Other,” indicate the method of signal delivery in the box that opens.

**Transmitting Antenna.** All applicants must indicate antenna manufacturer and model number. All directional antennas must comply with 47 CFR § 74.1235(i).

## TECHNICAL CERTIFICATIONS

**Proposal Compliance.** This item requires the applicant to certify that the proposal is for a fill-in FM translator or booster station. Applicants for FM translator stations must certify that the proposed facility coverage contour complies with the specific service restrictions. See 47 CFR §§ 74.1201(g) and 74.1232(f), and the Note to section 74.1231(h).

In the FM service, the coverage contour of the FM translator station must not extend beyond the protected coverage contour of the commercial FM primary station to be rebroadcast. For purposes of this question, the “protected coverage contour” is:

<i>Non-reserved band Class B Stations</i>	0.5mV/m	54 dBu (50,50) contour
<i>Non-reserved band Class B1 Stations</i>	0.7 mV/m	57 dBu (50,50) contour
<i>All other FM Station Classes</i>	1 mV/m	60 dBu (50,50) contour

Additionally, the applicant must certify that the proposal complies with the Commission’s contour overlap and interference protection provisions, as well as eligibility requirements and rules regarding unattended operation. Section 74.1204 of the Commission’s rules sets forth contour overlap and interference protection requirements between FM translator stations and FM full-service broadcast stations, other FM translator stations, and LP100 low-power FM (LPFM) stations. Section 74.1205 sets forth contour overlap and interference protection requirements between FM translator stations proposed in the reserved band (Channels 201-220) and all full-service TV6 stations, low power TV6 stations, and previously authorized TV6 translator stations. A proposed FM translator station may also comply with section 73.1205 by written agreement between the FM reserved channel translator applicant and each affected TV Channel 6 broadcast station licensee or permittee. 47 CFR § 73.1205(a).

Section 73.1232 sets forth the eligibility and licensing requirements for FM translator stations and FM broadcast booster stations. *See* 47 CFR § 74.1232(a) (subject to restrictions in 47 CFR § 74.1232(d), a license for an FM broadcast translator station may be issued to any qualified individual, organized group of individuals, broadcast station licensee, or local civil governmental body, upon an appropriate showing that plans for financing the installation and operation of the translator are sufficiently sound to assure prompt construction of the translator and dependable service); 47 CFR § 74.1232(d) (setting forth permissible coverage contours for FM translator stations). *See also* 47 CFR § 74.1232(f) (FM broadcast booster station will be authorized only to the licensee or permittee of the FM broadcast station being rebroadcast, to serve areas within the primary station's protected contour, *see also* 47 CFR § 74.1231(i) and Note); 47 CFR § 74.1232(g) (no numerical limit on FM broadcast booster stations; a separate application is required for each FM broadcast booster station; FM broadcast booster stations are not counted for purposes of the multiple ownership rules, *see* 47 CFR § 73.3555).

Section 73.1234 states that an FM translator station or FM broadcast booster station may be operated without a designated person in attendance **if the following requirements are met:**

- (1) If the transmitter site is not readily accessible at all hours and in all seasons, the translator operator has established a way to turn the transmitting apparatus on or off from a point that is readily accessible at all hours and in all seasons.
- (2) The transmitter is equipped with circuits that will automatically shut down the transmitter in the absence of a signal on the input channel.
- (3) The on/off control, if at a location other than at the transmitter site, is protected from tampering.
- (4) The Commission is supplied with the name, address, and telephone number of at least one person who may be contacted to secure suspension of operation should such action be deemed necessary by the Commission.
- (5) If lighting and painting of the antenna and supporting structure are required, the translator operator will make arrangements for daily inspection and logging of the lighting and associated control equipment, as required by 47 CFR §§ 17.47-17.49.

*See* 47 CFR § 74.1234.

If the applicant is unable to certify compliance with 47 CFR §§ 74.1204, 74.1205, 74.1232, and 74.1234, it must select "No" in response to this question. If the applicant responds "No" to this question, it must submit an explanatory attachment. FM Booster station applicants may disregard 47 CFR § 74.1205 for purposes of this certification.

**Environmental Effect:** This question requires the applicant to state whether grant of a construction permit for the proposed facility would be an action that may have a significant environmental effect under 47 CFR § 1.1306.

The National Environmental Policy Act of 1969 requires all federal agencies to ensure that the human environment is given consideration in all agency decision-making. Since January 1, 1986, applications for new broadcast stations, modifications of existing stations, and license renewals must contain either an environmental assessment that will serve as the basis for further Commission review and action, or an indication that operation of the station will not have a significant environmental impact. *See* 47 CFR § 1.1307(b). In this regard, applicants are required to look at eight environmental factors. These factors are relatively self-explanatory, except for the evaluation of whether the station adequately protects the public and workers from potentially harmful radiofrequency (RF) electromagnetic fields. In addition, if the applicant proposes a new tower that will exceed 450 feet in height, it must submit an Environmental Assessment as described below. Worksheet # XX includes both a general environmental evaluation and specific sub-sections for RF exposure analysis. Click the "Worksheets" link in the application to access this worksheet. These worksheets are designed to facilitate and substantiate the certification called for in Schedule 302. Their use is voluntary, but strongly encouraged.

**New RF Exposure Requirements.** In 1996, the Commission adopted new guidelines and procedures for evaluating environmental effects of RF emissions. All applications subject to environmental processing filed on or after October 15, 1997, must demonstrate compliance with the new requirements. These new guidelines incorporate two tiers of exposure limits:

- General population/uncontrolled exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure. Members of the general public are always considered under this category when exposure is not employment-related.
- Occupational/controlled exposure limits apply to human exposure to RF fields when persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure. These limits also apply where exposure is of a transient nature as a result of incidental passage through a location where exposure levels may be above the general populations/uncontrolled limits as long as the exposed person has been made fully aware of the potential for exposure and can exercise control over his or her exposure by leaving the area or some other appropriate means.

The new guidelines are explained in more detail in OET Bulletin 65, entitled *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*, Edition 97-01, released August, 1997, and Supplement A: Additional Information for Radio and Television Broadcast Stations (referred to here as "OET Bulletin 65" and "Supplement A," respectively). Both OET Bulletin 65 and Supplement A can be viewed and/or downloaded from the FCC Internet site at <https://www.fcc.gov/general/radio-frequency-safety-0#block-menu-block-4>. Additional information may be obtained from the RF Safety Group at [rfsafety@fcc.gov](mailto:rfsafety@fcc.gov) or (202) 418-2464 or from the FCC Call Center at 1-888-CALL FCC (225-5322).

Worksheets ## XX and XX will enable certain categories of stations to determine whether or the proposed facility will have a significant environmental impact as defined by section 1.1307. All applicants can use the General Environmental worksheet. Some, but not all, stations will be able to use the RF worksheet. Generally, the RF worksheet can only be used in the following situations: (1) single use tower; (2) single tower with several FM/FM translators; or (3) a multiple tower AM array with no other user co-located within the array. Additionally, in order to be eligible to use the RF worksheet, access to AM stations must be restricted by a fence or other barrier that will preclude casual or inadvertent access to the site and warning signs must be posted at appropriate intervals describing the potential for RF exposure. Click the "Worksheets" link in the application for more detail on eligibility.

If after using the worksheets the applicant finds that levels will exceed the RF guidelines, levels may still be acceptable based on a more detailed evaluation of a number of variables (e.g., antenna radiation patterns or measurement data). In that case, the applicant must submit an attachment to the application that explains why the proposed facility does not exceed the RF radiation exposure guidelines at locations where humans are likely to be present, or describing measures or circumstances which will prevent or discourage humans from entering those areas where the RF exposure exceeds the guidelines (e.g., fencing or remote location). The guidelines are explained in more detail in OET Bulletin 65.

If the applicant is not eligible to use the worksheets, it is not an indication that the proposed facility will cause excessive exposure. Generally, applicants that are not able to use the worksheets will need to utilize more complex calculations or measurements to demonstrate compliance. For this reason, applicants who are not eligible to use the Commission's Web worksheets should consider seeking the assistance of a qualified consulting engineer in determining whether the proposed facility will meet the RF exposure guidelines.

Should the applicant be unable to conclude that its proposal will have no significant impact on the quality of the human environment, or if it proposes a new tower exceeding 450 feet in height, it must submit an Environmental Assessment containing the following information:

1. A description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high-intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.



2. A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) by zoning, planning, environmental and other local, state, or federal authorities on matters relating to environmental effects.
3. A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.
4. A discussion of environmental and other considerations that led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects; and any alternative sites or facilities that have been or reasonably might be considered.
5. If relevant, a statement why the site cannot meet the FCC guidelines for RF exposure with respect to the public and workers.

**NOTE:** Even if the applicant concludes that human RF electromagnetic exposure is consistent with the Commission's guidelines, each site user must also meet requirements with respect to "on-tower" or other exposure by workers at the site (including RF exposure on one tower caused by sources on another tower or towers). These requirements include, but are not limited to, the reduction or cessation of transmitter power when persons have access to the site, tower, or antenna. Such procedures must be coordinated among all tower users. *See* OET Bulletin 65 for details. *See also* 47 CFR § 1.1306.

## CERTIFICATION

**General Certification Statements:** Each applicant waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of such frequency(ies) or spectrum, whether by authorization or otherwise.

Each applicant is responsible for the information that the application instructions convey. As a key element in the Commission's streamlined licensing process, a certification is required that these materials have been reviewed and that each question response is based on the applicant's review.

This question also requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. The applicant, by electronically signing the application, certifies that neither it nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of section 5301.

**NOTE:** With respect to this certification, the term "party to the application" includes, if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership association; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a five percent or more interest in the partnership. *See* 47 CFR § 1.2002(b)-(c).

**Authorized Party to Sign: The applicant must electronically sign the application.** Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. In such cases, counsel must separately set forth why the application is not signed by the client. In addition, as to any matter stated on the basis of belief instead of personal knowledge, counsel shall separately set forth the reasons for believing that

such statements are true. See 47 CFR § 73.3513. The electronic signature will consist of the electronic equivalent of the typed name of the individual. See Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23,064 (1998), ¶ 17.

Applicant must also check the box to certify that it has submitted with the application all required and relevant attachments.

Click the “Submit Application” button to submit the application. **The application is not considered to be submitted unless and until you click the “Submit Application” button.**

#### **FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT**

We have estimated that each response to this collection of information will take from 1.0 to 1.5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this burden estimate, or on how we can improve the collection and reduce the burden it causes you, please Email them to [pra@fcc.gov](mailto:pra@fcc.gov) or send them to the Federal Communications Commission, AMD-PERF, Paperwork Reduction Project (3060-0405), Washington, DC 20554. Please **DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS**. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0405.

**THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507.**